

IN THE WATER COURT OF THE STATE OF MONTANA
 CLARK FORK DIVISION
 KOOTENAI RIVER BASIN (76D)
 PRELIMINARY DECREE

* * * * *

CLAIMANTS: Kit Stoken; Shawn M. Vandeberg

OBJECTOR: Kit Stoken

COUNTEROBJECTOR: Indian Springs Ranch Water &
 Sewer LLC

CASE 76D-0043-R-2022

76D 25314-00
 76D 25315-00
 76D 25318-00
 76D 25332-00
 76D 25333-00
 76D 25336-00

CLAIMANTS: Indian Springs Ranch Water & Sewer LLC;
 Quirk Cattle Co.; Kit Stoken; Shawn M.
 Vandeberg

OBJECTORS: Quirk Cattle Co.; Kit Stoken

COUNTEROBJECTOR: Indian Springs Ranch Water &
 Sewer LLC

CASE 76D-0044-R-2022

76D 25311-00
 76D 25329-00
 76D 118112-00
 76D 30149978

CLAIMANTS: Kit Stoken; Shawn M. Vandeberg

OBJECTOR: Kit Stoken

COUNTEROBJECTOR: Indian Springs Ranch Water &
 Sewer LLC

CASE 76D-0047-R-2022

76D 25312-00
 76D 25313-00
 76D 25316-00
 76D 25317-00
 76D 25319-00
 76D 25328-00
 76D 25330-00
 76D 25331-00
 76D 25334-00
 76D 25335-00

CONSOLIDATED ORDER ON PENDING MOTIONS AND CLOSING CASES

This combined Order addresses pending motions and stipulations filed in three interrelated cases involving the resolution of issue remarks and objections for twenty

water right claims on Indian Creek in Lincoln County. For the reasons set forth in this Order, the Court approves the stipulations, grants the motions, and closes the cases.

BACKGROUND

1. General setting.

The claims consolidated in cases 76D-0043-R-2022, 76D-0044-R-2022, and 76D-0047-R-2022 describe rights to use water from Indian Creek for either stock water or irrigation use. Indian Creek is a tributary of the Tobacco River, north of Eureka in Lincoln County. Indian Creek flows generally westerly from its headwaters in the Galton Range within the Flathead National Forest. After joining the Tobacco River, water from Indian Creek ultimately flows into the Kootenai River in Lake Koocanusa. The Kootenai River and its tributaries comprise hydrologic basin 76D.

The water right claims in this case are appurtenant to land north of Eureka owned by several landowners, including Quirk Cattle Company (“Quirk”) and the successor owners of property that once was a ranch called the 69 Ranch. The 69 Ranch was owned by a partnership known as Cate & O’Mea. Over time, the 69 Ranch was subdivided and parcels were conveyed to various individuals. The subdivisions caused appurtenant water rights to be split, with fractional portions of the water rights conveyed to successor owners of the 69 Ranch. These successor landowners include Kit Stoken (“Stoken”), Shawn M. Vandenberg (“Vandenberg”), Indian Springs Ranch, LLC, and others.

2. Water Court decree proceedings.

In 1984, the Water Court issued a temporary preliminary decree (“TPD”) for basin 76D and conducted proceedings to resolve issue remarks and objections. Following the TPD, Quirk objected to many of the claims that Cate & O’Mea then owned. The Court consolidated the claims into case 76D-55 to address the objections. After conducting a hearing, the Court issued a Master’s Report, later amended in an Amended Master’s Report dated February 10, 1987. The Court adopted the Amended Master’s Report the same day.

Basin 76D is one of several basins in Montana that required reexamination under terms of the Reexamination Order issued by the Water Court on December 14, 2012. The Department of Natural Resources and Conservation (“DNRC”) reexamined the basin based on this order. Following reexamination and amendments to the Water Use Act providing for additional claim filing and further DNRC claim examination, the Water Court issued the Preliminary Decree for the basin on May 6, 2021.

Prior to issuing the Preliminary Decree, the Water Court opened a case to process a split request and otherwise address a number of Indian Creek water right claims. The Court concluded this case with an order approving a stipulation between Indian Springs Ranch Water & Sewer, LLC¹ (“ISR”), Quirk and Stoken. *In re Indian Springs Ranch Water & Sewer, LLC*, Case 76D-0001-S-2018, 2020 Mont. Water LEXIS 821. The 2020 order split some of the claims between ISR and Stoken and some other parties who were successors to the Cate & O’Mea claims.

The Preliminary Decree abstracts for the claims in these cases contain issue remarks based on DNRC’s reexamination. The claims also received objections. After the Water Court issued the Preliminary Decree, the Court consolidated cases 76D-0043-R-2022, 76D-0044-R-2022, and 76D-0047-R-2022, to address issue remarks and objections. The Court later reconsolidated the claims in the three cases to avoid having related claims in multiple cases. Order Reconsolidating Cases (Nov. 30, 2023).² As a general matter, the three cases address the claims under the following criteria, with the objections noted:

a. 76D-0043-R-2022

This case includes the following six irrigation and stock claims now owned by Stoken and Vandenberg with an October 24, 1884 priority date:

¹ Under the terms of the split, ISR actually owns water rights severed from land owned by Indian Springs Ranch, LLC (which is a different legal entity from ISR), or others.

² The Order Reconsolidating Cases was docketed in case 76D-0043-R-2022 as Doc. 13.00, case 76D-0044-R-2022 as Doc. 21.00, and case 76D-0047-R-2022 as Doc. 20.00. The Order also closed case 76D-0133-R-2022.

Claim	Purpose	Flow Rate	Objections
76D 25314-00	Stock	N/A	Stoken
76D 25315-00	Stock	N/A	Stoken
76D 25318-00	Stock	N/A	Stoken
76D 25332-00	Irrigation	3.04 cfs	Stoken; ISR (counterobjection)
76D 25333-00	Irrigation	3.04 cfs	Stoken; ISR (counterobjection)
76D 25336-00	Irrigation	3.04 cfs	Stoken; ISR (counterobjection)

The three stock water claims have identical places of use and points of diversion. The three irrigation claims also have identical 873.82 acre places of use and an identical single point of diversion.

b. 76D-0044-R-2022.

This case includes the following four irrigation and stock claims owned by Quirk, ISR, Stoken and Vandenberg with a March 25, 1899 priority date:

Claim	Owner	Purpose	Flow Rate	Objections
76D 25311-00	Stoken; Vandenberg	Stock	N/A	Stoken
76D 25329-00	Stoken; Vandenberg	Irrigation	5.70 cfs	Stoken; ISR (counterobjection)
76D 118112-00	Quirk	Irrigation	7.50 cfs	Stoken; Quirk
76D 30149978	ISR	Irrigation	1.80 cfs	Stoken

The two Stoken/Vandenberg claims have the same places of use and points of diversion as the claims in case 76D-0043-R-2022.

c. 76D-0047-R-2022

This case includes the following ten irrigation and stock claims owned by Stoken and Vandenberg with various priority dates. The claims in this case include:

Claim	Priority	Purpose	Flow Rate	Objections
76D 25312-00	July 14, 1894	Stock	N/A	Stoken
76D 25313-00	Sept. 19, 1902	Stock	N/A	Stoken
76D 25316-00	May 1, 1889	Stock	N/A	Stoken
76D 25317-00	Nov. 2, 1889	Stock	N/A	Stoken
76D 25319-00	Sept. 13, 1903	Stock	N/A	Stoken
76D 25328-00	Sept. 13, 1903	Irrigation	3.04 cfs	Stoken; ISR (counterobjection)
76D 25330-00	Sept. 19, 1902	Irrigation	5.70 cfs	Stoken; ISR (counterobjection)
76D 25331-00	July 14, 1894	Irrigation	2.85 cfs	Stoken; ISR (counterobjection)

76D 25334-00	May 1, 1889	Irrigation	4.75 cfs	Stoken; ISR (counterobjection)
76D 25335-00	Nov. 2, 1889	Irrigation	9.51 cfs	Stoken; ISR (counterobjection)

These ten claims have the same points of diversion and places of use as the Stoken/Vandenberg claims in the other cases.

3. *Issue remarks.*

a. *Case 76D-0043-R-2022 duplicate claim remarks.*

The six claims in this case include two categories of duplicate claim remarks. The first set of remarks appears on the stock claims and the second on the irrigation claims.

The remarks state:

THIS CLAIM PRESENTS ISSUES OF FACT AND LAW THAT WILL BE ADDRESSED AT THE PRELIMINARY DECREE OBJECTION STAGE. IT APPEARS THAT CLAIMS W025314-00, W025315-00 AND W025318-00 ARE DUPLICATES.³

THIS CLAIM PRESENTS ISSUES OF FACT AND LAW THAT WILL BE ADDRESSED AT THE PRELIMINARY DECREE OBJECTION STAGE. IT APPEARS THAT CLAIMS W025332-00, W025333-00, AND W025336-00 ARE DUPLICATES.

b. *Case 76D-0044-R-2022 overfiled notice of appropriation remarks.*

The three irrigation claims in this case all contain the following remark:

THE TYPE OF HISTORICAL RIGHT, PRIORITY DATE, AND FLOW RATE MAY BE QUESTIONABLE. THE CLAIMS FOLLOWING THIS STATEMENT USE THE SAME FILED APPROPRIATION TO DOCUMENT THE RIGHT. THE COMBINED FLOW RATE FOR THIS GROUP OF CLAIMS EXCEEDS THE TOTAL OF THE ORIGINAL APPROPRIATION. 76D 25329-00, 76D 118112-00, 76D 30149978.

c. *Case 76D-0044-R-2022 late objection remark.*

³ Somewhat confusingly, claims 43D 25314-00 and 43D 25318-00 also include another remark that states:

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT APPEAR TO BE DUPLICATE FILINGS. IT APPEARS ONLY ONE WATER RIGHT IS INVOLVED. 25314-00 25318-00.

In addition to the overfiled notice of appropriation remark, claim 76D 118112-00 includes the following late objection remark:

ON OCTOBER 31, 1985 CATE AND O'MEA, A MONTANA PARTNERSHIP, FILED A LATE OBJECTION TO THE PRIORITY DATE. THIS WILL BE HEARD AFTER PROPER NOTICE ON THE NEXT OBJECTION LIST.

d. Notice only remarks.

A notice-only remark appears on claims 76D 25311-00, 76D 25312-00, 76D 25313-00, 76D 25315-00, 76D 25316-00, 76D 25317-00, 76D 25318-00, and 76D 25319-00 that states:

THE POINT OF DIVERSION AND PLACE OF USE WERE MODIFIED AS A RESULT OF DNRC REVIEW UNDER MONTANA WATER COURT REEXAMINATION ORDERS. IF NO OBJECTIONS ARE FILED TO THIS CLAIM, THESE ELEMENTS WILL REMAIN AS THEY APPEAR ON THIS ABSTRACT AND THE REMARK WILL BE REMOVED FROM THE CLAIM.

4. Objections.

Stoken filed objections to all the claims in these cases, based primarily on ownership and the issue remarks. Quirk filed a self-objection to claim 76D 118112-00 disagreeing with the overfiled notice of appropriation issue remark. ISR also filed counterobjections to each of Stoken's irrigation claims.

5. Motions.

The parties filed several motions to address the issue remarks and objections. These motions and their procedural status include:

a. Stoken Motions to Dismiss.

Stoken filed several motions to dismiss other objectors. These included

Date (Doc.) ⁴	Description	Ruling Date	Ruling
2/10/2023 (4.00)	Motion to dismiss parties for failure to participate	5/16/2023 (14.00)	Granted (by water master prior to reconsolidation)

⁴ All Document Number references are to case 76D-0044-R-2022 unless otherwise noted.

12/27/2023 (26.00)	Confirming dismissed parties and motion to dismiss others	2/1/2024 (32.00)	Granted
3/5/24 (34.00)	Unopposed motion to dismiss Codiz and Codiz-Talamantes	3/6/2025 (36.00)	Granted

Based on Water Court notices, voluntary withdrawals, and the Court's orders granting the motions to dismiss filed by Stoken, the claimants in the cases were winnowed down to just Stoken, Vandenberg, Quirk, and ISR.

b. Stoken Motion for Partial Summary Judgment.

On May 23, 2024, Stoken filed a Motion for Partial Summary Judgment in all three cases. (Doc. 48.00). The motion asks the Court to limit the place of use for the claims jointly owned by Stoken and Vandenberg to only Stoken's "irrigated place of use," which Stoken defined in the motion. The motion acknowledges that it "does not purport to address the 'Notice Exceeded' remark that is the principal subject of Case 76D-44." (Doc. 48.00, Brief at 2).

c. Indian Springs Motions to Dismiss and to Approve Stipulation.

On January 29, 2024, ISR filed a motion to dismiss Stoken's objection to ISR's claim 76D 30149978 (Doc. 30.00), and a motion to approve and adopt the stipulations (Doc. 31.00). ISR's motion argues the objection raises issues already resolved in the ISR split proceeding. ISR's motion to approve the stipulations remains pending before the Court.

d. Quirk Motion for Partial Summary Judgment.

On April 9, 2024, Quirk filed a motion for summary Judgment. (Doc. 41.00). The Court denied the motion on August 1, 2024. (Doc. 51.00).

6. Mediation and settlement stipulations.

On April 10, 2024, the Court issued a consolidated order referring these cases to mediation. Chief Water Judge Russ McElyea conducted a mediation on July 11, 2024. Prior to the mediation, Stoken and ISR filed a "Notice of Partial Settlement" on June 11,

2024. The Notice states Stoken and ISR had resolved their issues for the Stoken claims in all three cases.

On August 13, 2024, Stoken, ISR, and Quirk filed a Stipulation and Settlement Agreement (the “Quirk Stipulation”) to resolve the issues raised in Case 76D-0044-R-2022 exclusively. (Doc. 52.00). The Quirk Stipulation seeks to resolve the “notice exceeded” issue remarks on claims 76D 118112-00, 76D 25329-00, and 76D 30149978, and the objections to claim 76D 118112-00.

On November 8, 2024, Stoken filed a stipulation (the “ISR Stipulation”). (Doc. 53.00). Pursuant to the terms of the ISR Stipulation, Stoken and ISR agreed to withdraw their respective objections to each other’s claims in Case 76D-0044-R-2022.

ISSUES

The following issues remain pending before the Court:

1. Should the Court grant Stoken’s motion for partial summary judgment as to Vandenberg’s interest in the irrigation claims?
2. Does the ISR Stipulation resolve the remaining issues in Case 76D-0044-R-2022?
3. Are any other claim modifications necessary to resolve any remaining issue remarks?
4. Do the stipulations, motions and claim modifications resolve all objections?

DISCUSSION

1. Stoken Motion for Partial Summary Judgment.

Summary judgment is proper when “the pleadings, the discovery and disclosure materials on file, and any affidavits show that there is no genuine issue as to any material fact and that the movant is entitled to judgment as a matter of law.” M. R. Civ. P. 56(c)(3). A material fact involves the elements of the cause of action or defense at issue to such an extent that it requires resolution of the issue by a trier of fact. *Williams v. Plum Creek Timber Co.*, 2011 MT 271, ¶ 14, 362 Mont. 368, 264 P.3d 1090. In determining

whether a material fact exists, the court views the evidence in the light most favorable to the non-moving party. *Lorang v. Fortis Ins. Co.*, 2008 MT 252, ¶ 38, 345 Mont. 12, 192 P.3d 186.

Where the moving party demonstrates there is no genuine issue as to any material fact, the burden shifts to the party opposing the motion to establish an issue of material fact. *Lee v. USAA Cas. Ins. Co.*, 2001 MT 59, ¶ 26, 304 Mont. 356, 22 P.3d 631.

Ultimately the question of whether the moving party is entitled to summary judgment under the undisputed facts is a question of law. *Thornton v. Flathead County*, 2009 MT 367, ¶ 14, 353 Mont. 252, 220 P.3d 395.

Stoken's partial summary judgment motion argues the Court's prior orders dismissing parties reduced the places of use for irrigation claims 76D 25328-00, 76D 25329-00, 76D 25330-00, 76D 25331-00, 76D 25332-00, 76D 25333-00, 76D 25334-00, 76D 25335-00, and 76D 25336-00, leaving the claims appurtenant only to property owned by Stoken and Vandenberg. According to discovery responses Stoken included with the motion, Stoken's property consists of 163.55 acres, of which 150 acres are irrigated. Stoken asks the Court to limit the place of use to these 150 acres, which Stoken describes in the motion as follows:

<u>Acres</u>	<u>Qtr</u>	<u>Sec</u>	<u>Tw</u>	<u>Rge</u>	<u>County</u>
63.00	NW	3	36N	27W	Lincoln
45.30	N2SW	3	36N	27W	Lincoln
39.70	W2SE	3	36N	27W	Lincoln
2.00	E2NENE	4	36N	27W	Lincoln

As part of this request, Stoken asks the Court to exclude 2.33 acres owned by Vandenberg and to remove Vandenberg as an owner on the irrigation claims. Stoken does not seek similar relief for the stock water claims.

Stoken supports the motion with two affidavits, both from Al Cameron. (Doc. 48.00, Ex. 1). Cameron describes his personal knowledge with irrigation practices in the area, first while working as a ranch hand for the 69 Ranch in the 1970s, and later working as Stoken's ranch manager. Cameron's affidavits state Vandenberg's property was not

historically irrigated and historical irrigation of this portion of the former ranch was limited to Stoken's property. Stoken also supported her assertions with a memorandum from Senior Water Rights Specialist Lee Yelin (Doc. 48.00, Ex. 3), a Declaration of Corey Lamey (Doc. 48.00, Ex. 5), and a Declaration of Jay Titchbourne (Doc. 48.00, Ex. 6). Each of these documents provide evidence that Vandeberg's property has not been irrigated for decades, if at all.

Stoken filed her motion on May 23, 2024. Under Rule 56 of the Montana Rules of Civil Procedure, Vandeberg was required to respond within 21 days. Adding three days for mailing and business day adjustment, Vandeberg's response deadline was June 17, 2024. Vandeberg did not meet the deadline, nor did Vandeberg request an extension. Instead, on July 11, 2024, Vandeberg filed an expert witness report prepared by Downstream Research (the "Downstream Report"). (Doc. 50.00). The cover to the email states the Downstream Report applies to these three cases.

Even if the Vandeberg had timely filed it, the Downstream Report does not specifically respond to Stoken's motion. Rather, it contends Vandeberg's property could have been historically irrigated from a point of diversion located in the SWNWSE of Section 36, Township 37 North, Range 27 West. This location describes one of the five points of diversion on the original Cate & O'Mara filing that now is part of the split water rights now owned by ISR. It does not describe a point of diversion on abstracts for the irrigation claims Vandeberg currently co-owns with Stoken.

As to historical irrigation of Vandeberg's property, the Downstream Report only states that Vandeberg reported to the expert that "he [*i.e.* Vandeberg] and his predecessors simply pumped out of the creek to irrigate a small pasture area – approximately 2.322 GIS acres – as well as a garden." (Doc. 50.00, at pdf p. 4). After Vandeberg later obtained counsel, Vandeberg argued in a subsequent filing dated November 22, 2024, that the Downstream Report "concludes the 1962 aerial photo shows approximately 2.33 acres of irrigation on the Vandeberg property." (Doc. 57.00, at 3).

Vandeberg's response does not create a sufficient issue of fact on which to deny Stoken's motion. The response was filed late, without either seeking leave from the Court

or consent from Stoken. Even if it was timely filed, it does not contain any responsive affidavit to rebut the lack of irrigation assertions stated in the Cameron affidavits. The Downstream Report includes some historical aerial photography, but with little analysis and no evidence of irrigation of the Vandeberg property for more than 60 years. As Stoken notes in her filing, this is a sufficiently long period of nonuse to shift the burden to Vandeberg to show lack of intent to abandon. Vandeberg fails to do so.

Vandeberg's "response" is further problematic due to the lack of any timely objection to the point of diversion after the Court issued the Basin 76D Preliminary Decree. If, as the Downstream Report seems to suggest, Vandeberg had issues with one of the historically-claimed Cate & O'Mea points of diversion, Vandeberg should have objected to the claims on that basis. Vandeberg but failed to do so. Vandeberg has made no request to the Court to add another point of diversion to the irrigation claims – or to be added to one of the ISR claims – and the time to do so has long since passed. For all these reasons, Vandeberg fails to show that Stoken's motion should not be granted.

2. Stipulations

a. Quirk Stipulation.

The Quirk Stipulation between Quirk, Stoken and ISR seeks to resolve the "notice exceeded" issue remarks on claims 76D 118112-00, 76D 25329-00, and 76D 30149978. The background to this remark is discussed in more detail in the Court's August 1, 2024 Order on the summary judgment motion Quirk filed. (Doc. 51.00). To summarize, these three claims all are filed rights based on a 300 miner's inch (7.5 cfs) notice of appropriation for a March 25, 1899 right filed by Thomas Quirk. This notice formed the basis for claims filed both by Quirk and by Cate & O'Mea, for a total of 15.0 cfs. Quirk argued the remark based on the overfiled notice of appropriation was improper. The Court disagreed for the reasons set out in the August 1, 2024 Order.

The Quirk Stipulation followed the Order and seeks to resolve the issue by reducing the flow rates on the parties' respective claims as follows:

Claim no.	Owner	Preliminary Decree flow rate	Quirk Stipulation flow rate
76D 25329-00	Stoken	5.70 cfs	1.70 cfs
76D 30149978	ISR	1.80 cfs	1.80 cfs
76D 118112-00	Quirk	7.50 cfs	4.00 cfs
Total		15.00 cfs	7.50 cfs

As part of the Quirk Stipulation, the parties also stipulated to Quirk having a use irrigation right for 3.5 cfs with a priority date of July 30, 1947. As evidentiary support, the parties included a United States Geological Survey aerial photograph with the same date. Although the parties to the Quirk Stipulation do not define the nature of the proposed 1947 right, it effectively is an implied claim⁵ because it arises out of the statement of claim Quirk filed, but with a different priority date.

The Water Court uses a three-part test to evaluate whether to authorize an implied claim: (a) the implied claim must be supported by evidence in the claim form or the documents attached to the claim form; (b) substantial credible evidence must exist of actual historical use corroborating the implied claim; and (c) creating the implied claim should not result in a change to historical water use or increase the historical burden on other water users. *In re Lee E. Foss*, Case 76HF-580, 2013 Mont. Water LEXIS 17, *32 (Order Amending and Partially Adopting Master's Report as Amended); *Hoon v. Murphy*, ¶ 54 (upholding implied claim based on "substantial credible evidence" of historical use).

The proposed implied claim embedded in the Quirk Stipulation meets all three parts of the test. Quirk's original statement of claim claims 300 miner's inches, which would be the sum total flow rate of the adjusted claim 76D 118112-00 plus the flow rate of the new claim. The Quirk Stipulation provides evidence of the claim as of its proposed 1947 priority date in the form of historical aerial photographs. As to the third part of the test, no other third party objected or sought to appear based on the overfiled notice issue remark, which indicates recognizing the claim, especially with its junior priority date,

⁵ An "implied claim" is "a claim authorized by the water court to be separated and individually identified when a statement of claim includes multiple rights." Rule 2(a)(33), W.R.C.E.R., as incorporated by Rule 2(b), W.R.Adj.R.

will not affect other users. Based on this analysis, the Court authorizes implied claim no. 76D 30160125 owned by Quirk with a flow rate of 3.5 cfs, a priority date of July 30, 1947, and all other elements the same as claim 76D 118112-00.

In recognizing the claim, the Court is cognizant of its decision in *In re BFR Fam. Ltd.. Partnership LLLP*, Case 41G-0080-R-2021, 2024 Mont. Water LEXIS 12. There the Court declined to recognize a new use right with a junior priority date as a mechanism to resolve a decree exceeded issue. Like this case, *BFR* involved a situation where two parties claimed the same underlying water right. Unlike this case, the stipulation filed in the case had both rights retaining their full flow rates, with one claim being one day junior to another. The Court applied Rule 17(b), W.R.Adj.R., which prohibits parties from expanding an element of a claim without supporting evidence. That situation does not exist here because the use right with a 1947 priority date is supported by evidence.

b. Stipulation between Stoken and Indian Springs.

To guide resolution of the notice exceeded issue remark placed on claims 76D 25329-00, 76D 118112-00, and 76D 30149978, Stoken's objection to ISR's claim 76D 30149978, and ISR's counterobjections to Stoken's claims 76D 25329-00, 76D 25328-00, 76D 25330-00, 76D 25331-00, 76D 25332-00, 76D 25333-00, 76D 25334-00, 76D 25335-00, and 76D 25336-00, the parties agreed that (1) the flow rate for ISR's claim 76D 30149978 of 1.8 CFS should remain and Stoken would reduce the flow rate of claim 76D 25329-00; and (2) ISR relinquished all rights to pursue any legal remedies for its contention that Stoken breached the Stoken-Indian Springs Stipulation and Agreement approved by the Water Court in Case 76D-S1. The first condition is met by implementing the terms of the Quirk Stipulation. The second condition is essentially a private agreement between the parties to resolve their disputes. These terms are reasonable and are approved.

3. Remaining Issue Remarks

a. 76D-0043-R-2022

On October 30, 2024, after all stipulations and motions were filed, the Court issued a Show Cause Order as to the six claims in case 76D-0043-R-2022. (Case 76D-

0043-R-2022; Doc. 35.00). The Court asked the parties to address why four of the claims (76D 25315-00, 76D 25318-00, 76D 25333-00, and 76D 25336-00) should not be dismissed as duplicates on the basis that they share all elements with the remaining two claims (76D 25314-00 and 76D 25332-00).

Stoken and Vandeberg each filed a response to the Show Cause Order. Vandeberg's response does not address the issue raised in the Order, but instead provides a tardy and insufficient response to Stoken's summary judgement order. Stoken does address the merits and provides an evidentiary record that the claims are actually based on separate filings.

Stoken explains that the claims represent the multiple uses of three different water rights filed on the same day. Claim 76D 25332-00 represents a water right with a priority date of October 24, 1884, appropriated by Sidney Butler. Claim 76D 25333-00 represents a water right with a priority date of July 17, 1883, appropriated by William Ferguson. Claim 76D 25336-00 represents a water right with a priority date of October 24, appropriated by Albert Evans.

The claims are recorded in the Flathead County water rights books, which were transcribed from the Missoula County water books. Claims 76D 25332-00 and 76D 25336-00 are located in book 36, page 490, and claim 76D 25333-00 is located in book 36, page 489.

The duplicate issue remark was added to the claims by order of the Water Court in Case 76D-55 after it was briefly raised as an issue in a motion to amend filed by an objector to the claims. The Water Court placed the remarks on the claims because the legible evidence suggested claims 76D 25314-00, 76D 25315-00, 76D 25318-00, 76D 25332-00, 76D 25333-00, and 76D 25336-00 are all based on the William Ferguson water right. Stoken believes this occurred because the copies of the notices for Butler, Ferguson, and Evans in the Flathead County water books are very poor and the appropriations are recorded sequentially.

Stoken includes the notices of appropriation for the three water rights; digitalizing them has improved their quality. Claims 76D 25314-00, 76D 25315-00, 76D 25318-00,

76D 25332-00, 76D 25333-00, and 76D 25336-00 indeed represent multiple uses of three different water rights. The duplicate issue is resolved.

The remaining remarks placed on claims 76D 25315-00 and 76D 25318-00 are notice-type issue remarks identifying DNRC modifications that did not receive objections and are deemed resolved.

b. 76D-0044-R-2022

The issue remarks placed on claims 76D 25311-00 and 76D 118112-00 that were not addressed by the Stipulation filed by Stoken, ISR and Quirk and are notice-type issue remarks that are resolved as they have not received objections or have not been pursued by previous objectors.

c. 76D-0047-R-2022

The issue remarks placed on claims 76D 25312-00, 76D 25313-00, 76D 25316-00, 76D 25317-00, 76D 25319-00, 76D 25335-00 are notice-type issue remarks that are resolved as they have not received objections or have not been pursued by previous objectors.

ORDER

Therefore, it is ORDERED, that the claims are modified as provided in this Order, with all objections DISMISSED, and all issue remarks removed as resolved. Claim 76D 30160125 is generated in accordance with the terms of this Order.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service Via Electronic Mail:

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****Service List Updated 8/8/2025****

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
KOOTENAI RIVER
BASIN 76D**

Water Right Number: 76D 25314-00 STATEMENT OF CLAIM

Version: 6 -- POST DECREE

Status: ACTIVE

Owners: KIT STOKEN
BOX 768
EUREKA, MT 59917

SHAWN M VANDEBERG
PO BOX 860
EUREKA, MT 59917

Priority Date: OCTOBER 24, 1884

Type of Historical Right: FILED

Purpose (Use): STOCK

Flow Rate: A SPECIFIC FLOW RATE HAS NOT BEEN DECREED BECAUSE THIS USE CONSISTS OF STOCK DRINKING DIRECTLY FROM THE SOURCE, OR FROM A DITCH SYSTEM. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY TO SUSTAIN THIS PURPOSE.

Volume: THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

Source Name: INDIAN CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		N2NE	3	36N	27W	LINCOLN
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					
2		E2E2NW	3	36N	27W	LINCOLN
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					
3		E2SW	3	36N	27W	LINCOLN
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					

Period of Use: JANUARY 1 TO DECEMBER 31

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			N2NE	3	36N	27W	LINCOLN
2			E2E2NW	3	36N	27W	LINCOLN
3			E2SW	3	36N	27W	LINCOLN

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
KOOTENAI RIVER
BASIN 76D**

Water Right Number: 76D 25315-00 STATEMENT OF CLAIM

Version: 5 -- POST DECREE

Status: ACTIVE

Owners: KIT STOKEN
BOX 768
EUREKA, MT 59917

SHAWN M VANDEBERG
PO BOX 860
EUREKA, MT 59917

***Priority Date:** OCTOBER 24, 1884

Type of Historical Right: FILED

Purpose (Use): STOCK

Flow Rate: A SPECIFIC FLOW RATE HAS NOT BEEN DECREED BECAUSE THIS USE CONSISTS OF STOCK DRINKING DIRECTLY FROM THE SOURCE, OR FROM A DITCH SYSTEM. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY TO SUSTAIN THIS PURPOSE.

Volume: THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

Source Name: INDIAN CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		N2NE	3	36N	27W	LINCOLN
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					
2		E2E2NW	3	36N	27W	LINCOLN
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					
3		E2SW	3	36N	27W	LINCOLN
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					

Period of Use: JANUARY 1 TO DECEMBER 31

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			N2NE	3	36N	27W	LINCOLN
2			E2E2NW	3	36N	27W	LINCOLN
3			E2SW	3	36N	27W	LINCOLN

Remarks:

SPLIT CLAIM NO. 76D 30149968 WAS AUTHORIZED AND GENERATED BASED ON INFORMATION IN THIS CLAIM.

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
KOOTENAI RIVER
BASIN 76D**

Water Right Number: 76D 25318-00 STATEMENT OF CLAIM

Version: 4 -- POST DECREE

Status: ACTIVE

Owners: KIT STOKEN
BOX 768
EUREKA, MT 59917

SHAWN M VANDEBERG
PO BOX 860
EUREKA, MT 59917

Priority Date: OCTOBER 24, 1884

Type of Historical Right: FILED

Purpose (Use): STOCK

Flow Rate: A SPECIFIC FLOW RATE HAS NOT BEEN DECREED BECAUSE THIS USE CONSISTS OF STOCK DRINKING DIRECTLY FROM THE SOURCE, OR FROM A DITCH SYSTEM. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY TO SUSTAIN THIS PURPOSE.

Volume: THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

Source Name: INDIAN CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		N2NE	3	36N	27W	LINCOLN
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					
2		E2E2NW	3	36N	27W	LINCOLN
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					
3		E2SW	3	36N	27W	LINCOLN
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					

Period of Use: JANUARY 1 TO DECEMBER 31

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			N2NE	3	36N	27W	LINCOLN
2			E2E2NW	3	36N	27W	LINCOLN
3			E2SW	3	36N	27W	LINCOLN

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
KOOTENAI RIVER
BASIN 76D**

Water Right Number: 76D 25332-00 STATEMENT OF CLAIM

Version: 5 -- POST DECREE

Status: ACTIVE

Owners: KIT STOKEN
BOX 768
EUREKA, MT 59917

Priority Date: OCTOBER 24, 1884

Type of Historical Right: FILED

Purpose (Use): IRRIGATION

Irrigation Type: SPRINKLER

Flow Rate: 3.04 CFS

Volume: THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 3 - MODERATE

Maximum Acres: 150.00

Source Name: INDIAN CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		SESENW	3	36N	27W	LINCOLN

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: PUMP

Period of Use: JANUARY 1 TO DECEMBER 31

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	63.00		NW	3	36N	27W	LINCOLN
2	45.30		N2SW	3	36N	27W	LINCOLN
3	39.70		W2SE	3	36N	27W	LINCOLN
4	2.00		E2NENE	4	36N	27W	LINCOLN

Total: 150.00

Remarks:

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

25328-00	25329-00	25330-00	25331-00	25332-00	25333-00
25334-00	25335-00	25336-00			

SPLIT CLAIM NO. 76D 30149981 WAS AUTHORIZED AND GENERATED BASED ON INFORMATION IN THIS CLAIM.

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
KOOTENAI RIVER
BASIN 76D**

Water Right Number: 76D 25333-00 STATEMENT OF CLAIM

Version: 4 -- POST DECREE

Status: ACTIVE

Owners: KIT STOKEN
BOX 768
EUREKA, MT 59917

***Priority Date:** OCTOBER 24, 1884

Type of Historical Right: FILED

Purpose (Use): IRRIGATION

Irrigation Type: SPRINKLER

Flow Rate: 3.04 CFS

***Volume:** THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 3 - MODERATE

Maximum Acres: 150.00

Source Name: INDIAN CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		SESENW	3	36N	27W	LINCOLN

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: PUMP

Period of Use: JANUARY 1 TO DECEMBER 31

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	63.00		NW	3	36N	27W	LINCOLN
2	45.30		N2SW	3	36N	27W	LINCOLN
3	39.70		W2SE	3	36N	27W	LINCOLN
4	2.00		E2NENE	4	36N	27W	LINCOLN

Total: 150.00

Remarks:

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

25328-00	25329-00	25330-00	25331-00	25332-00	25333-00
25334-00	25335-00	25336-00			

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
KOOTENAI RIVER
BASIN 76D**

Water Right Number: 76D 25336-00 STATEMENT OF CLAIM

Version: 4 -- POST DECREE

Status: ACTIVE

Owners: KIT STOKEN
BOX 768
EUREKA, MT 59917

Priority Date: OCTOBER 24, 1884

Type of Historical Right: FILED

Purpose (Use): IRRIGATION

Irrigation Type: SPRINKLER

Flow Rate: 3.04 CFS

***Volume:** THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 3 - MODERATE

Maximum Acres: 150.00

Source Name: INDIAN CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		SESENW	3	36N	27W	LINCOLN

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: PUMP

Period of Use: JANUARY 1 TO DECEMBER 31

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	63.00		NW	3	36N	27W	LINCOLN
2	45.30		N2SW	3	36N	27W	LINCOLN
3	39.70		W2SE	3	36N	27W	LINCOLN
4	2.00		E2NENE	4	36N	27W	LINCOLN

Total: 150.00

Remarks:

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

25328-00	25329-00	25330-00	25331-00	25332-00	25333-00
25334-00	25335-00	25336-00			

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
KOOTENAI RIVER
BASIN 76D**

Water Right Number: 76D 25311-00 STATEMENT OF CLAIM

Version: 5 -- POST DECREE

Status: ACTIVE

Owners: KIT STOKEN
BOX 768
EUREKA, MT 59917

SHAWN M VANDEBERG
PO BOX 860
EUREKA, MT 59917

Priority Date: MARCH 25, 1899

Type of Historical Right: FILED

Purpose (Use): STOCK

Flow Rate: A SPECIFIC FLOW RATE HAS NOT BEEN DECREED BECAUSE THIS USE CONSISTS OF STOCK DRINKING DIRECTLY FROM THE SOURCE, OR FROM A DITCH SYSTEM. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY TO SUSTAIN THIS PURPOSE.

Volume: THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

Source Name: INDIAN CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		N2NE	3	36N	27W	LINCOLN
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					
2		E2E2NW	3	36N	27W	LINCOLN
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					
3		E2SW	3	36N	27W	LINCOLN
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					

Period of Use: JANUARY 1 TO DECEMBER 31

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			N2NE	3	36N	27W	LINCOLN
2			E2E2NW	3	36N	27W	LINCOLN
3			E2SW	3	36N	27W	LINCOLN

Remarks:

SPLIT CLAIM NO. 76D 30147049 WAS AUTHORIZED AND GENERATED BASED ON INFORMATION IN THIS CLAIM.

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
KOOTENAI RIVER
BASIN 76D**

Water Right Number: 76D 25329-00 STATEMENT OF CLAIM

Version: 5 -- POST DECREE

Status: ACTIVE

Owners: KIT STOKEN
BOX 768
EUREKA, MT 59917

Priority Date: MARCH 25, 1899

Type of Historical Right: FILED

Purpose (Use): IRRIGATION

Irrigation Type: SPRINKLER

Flow Rate: 1.70 CFS

Volume: THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 3 - MODERATE

Maximum Acres: 150.00

Source Name: INDIAN CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		SESENW	3	36N	27W	LINCOLN

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: PUMP

Period of Use: JANUARY 1 TO DECEMBER 31

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	63.00		NW	3	36N	27W	LINCOLN
2	45.30		N2SW	3	36N	27W	LINCOLN
3	39.70		W2SE	3	36N	27W	LINCOLN
4	2.00		E2NENE	4	36N	27W	LINCOLN

Total: 150.00

Remarks:

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

25328-00	25329-00	25330-00	25331-00	25332-00	25333-00
25334-00	25335-00	25336-00			

SPLIT CLAIM NO. 76D 30149978 WAS AUTHORIZED AND GENERATED BASED ON INFORMATION IN THIS CLAIM.

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
KOOTENAI RIVER
BASIN 76D**

Water Right Number: 76D 118112-00 STATEMENT OF CLAIM

Version: 4 -- POST DECREE

Status: ACTIVE

Owners: QUIRK CATTLE CO
1551 BURMA RD
EUREKA, MT 59917-9487

Priority Date: MARCH 25, 1899

Type of Historical Right: FILED

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 4.00 CFS

Volume: THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 3 - MODERATE

Maximum Acres: 391.00

Source Name: INDIAN CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		SEWSE	30	37N	26W	LINCOLN

Period of Diversion: APRIL 1 TO NOVEMBER 1

Diversion Means: HEADGATE

Ditch Name: QUIRK DITCH NO. 1

Period of Use: APRIL 1 TO NOVEMBER 1

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	131.00		E2	24	37N	27W	LINCOLN
2	66.00		E2	25	37N	27W	LINCOLN
3	150.00			30	37N	26W	LINCOLN
4	44.00		W2S2	19	37N	26W	LINCOLN
Total:	391.00						

Remarks:

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

40711-00	118105-00	118106-00	118107-00	118111-00	118112-00
118113-00	118114-00	134521-00	30160125		

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE MULTIPLE USES OF THE SAME RIGHT. THE USE OF THIS RIGHT FOR SEVERAL PURPOSES DOES NOT INCREASE THE EXTENT OF THE WATER RIGHT. RATHER IT DECREES THE RIGHT TO ALTERNATE AND EXCHANGE THE USE (PURPOSE) OF THE WATER IN ACCORD WITH HISTORICAL PRACTICES.

118112-00 118129-00

IMPLIED CLAIM NO. 76D 30160125 WAS AUTHORIZED AND GENERATED BASED ON INFORMATION IN THIS CLAIM.

ADMINISTRATION OF THIS WATER RIGHT IS SUBJECT TO A 1987 WATER USE AGREEMENT, AS MODIFIED BY A 2018 SETTLEMENT AGREEMENT AND MUTUAL RELEASE. THE 1987 WATER USE AGREEMENT IS ON FILE IN WATER COURT CASE 76D-57. THE 2018 SETTLEMENT AGREEMENT AND MUTUAL RELEASE IS ON FILE IN WATER COURT CASE WC-2017-04. A COPY OF EACH AGREEMENT HAS BEEN PLACED IN THIS CLAIM FILE.

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
KOOTENAI RIVER
BASIN 76D**

Water Right Number: 76D 30149978 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: SEVERED

Owners: INDIAN SPRINGS RANCH WATER & SEWER LLC
PO BOX 226
EUREKA, MT 59917-0226

Priority Date: MARCH 25, 1899

Type of Historical Right: FILED

Purpose (Use): IRRIGATION

Irrigation Type: SPRINKLER

Flow Rate: 1.80 CFS

Volume: THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 3 - MODERATE

Maximum Acres: 275.18

Source Name: INDIAN CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NWSENE	36	37N	27W	LINCOLN
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	PUMP					
2		SESWNE	36	37N	27W	LINCOLN
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	PUMP					
3		NWNWSE	36	37N	27W	LINCOLN
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	PUMP					
4		SWNWSE	36	37N	27W	LINCOLN
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	PUMP					

Period of Use: JANUARY 1 TO DECEMBER 31

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	38.53		E2NW	2	36N	27W	LINCOLN
2	17.67		SESW	25	37N	27W	LINCOLN
3	52.53		NE	36	37N	27W	LINCOLN
4	59.23		E2NW	36	37N	27W	LINCOLN

5	50.81	W2SE	36	37N	27W	LINCOLN
6	56.41	SW	36	37N	27W	LINCOLN
Total:		275.18				

Remarks:

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

30149977 30149978 30149979 30149980 30149981 30149982
30149983

THIS SPLIT CLAIM WAS AUTHORIZED BY THE WATER COURT BASED ON INFORMATION IN CLAIM NO. 76D 25328-00.

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
KOOTENAI RIVER
BASIN 76D**

Water Right Number: 76D 30160125 STATEMENT OF CLAIM

Version: 1 -- ORIGINAL RIGHT

Status: ACTIVE

Owners: QUIRK CATTLE CO
1551 BURMA RD
EUREKA, MT 59917-9487

Priority Date: JULY 30, 1947

Type of Historical Right: USE

Purpose (Use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 3.50 CFS

Volume: THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 3 - MODERATE

Maximum Acres: 391.00

Source Name: INDIAN CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		SENWSE	30	37N	26W	LINCOLN

Period of Diversion: APRIL 1 TO NOVEMBER 1

Diversion Means: HEADGATE

Ditch Name: QUIRK DITCH NO. 1

Period of Use: APRIL 1 TO NOVEMBER 1

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	131.00		E2	24	37N	27W	LINCOLN
2	66.00		E2	25	37N	27W	LINCOLN
3	150.00			30	37N	26W	LINCOLN
4	44.00		W2S2	19	37N	26W	LINCOLN

Total: 391.00

Remarks:

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

40711-00	118105-00	118106-00	118107-00	118111-00	118112-00
118113-00	118114-00	134521-00	30160125		

THIS IMPLIED CLAIM WAS AUTHORIZED BY THE WATER COURT BASED ON INFORMATION IN CLAIM NO. 76D 118112-00.

WATER COURT
ABSTRACT OF WATER RIGHT CLAIM
KOOTENAI RIVER
BASIN 76D

Water Right Number: 76D 25312-00 STATEMENT OF CLAIM

Version: 5 -- POST DECREE

Status: ACTIVE

Owners: KIT STOKEN
BOX 768
EUREKA, MT 59917

SHAWN M VANDEBERG
PO BOX 860
EUREKA, MT 59917

Priority Date: JULY 14, 1894

Type of Historical Right: FILED

Purpose (Use): STOCK

Flow Rate: A SPECIFIC FLOW RATE HAS NOT BEEN DECREED BECAUSE THIS USE CONSISTS OF STOCK DRINKING DIRECTLY FROM THE SOURCE, OR FROM A DITCH SYSTEM. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY TO SUSTAIN THIS PURPOSE.

Volume: THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

Source Name INDIAN CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		N2NE	3	36N	27W	LINCOLN
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					
2		E2E2NW	3	36N	27W	LINCOLN
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					
3		E2SW	3	36N	27W	LINCOLN
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					

Period of Use: JANUARY 1 TO DECEMBER 31

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			N2NE	3	36N	27W	LINCOLN
2			E2E2NW	3	36N	27W	LINCOLN
3			E2SW	3	36N	27W	LINCOLN

Remarks:

SPLIT CLAIM NO. 76D 30149966 WAS AUTHORIZED AND GENERATED BASED ON INFORMATION IN THIS CLAIM.

WATER COURT
ABSTRACT OF WATER RIGHT CLAIM
KOOTENAI RIVER
BASIN 76D

Water Right Number: 76D 25313-00 STATEMENT OF CLAIM

Version: 5 -- POST DECREE

Status: ACTIVE

Owners: KIT STOKEN
BOX 768
EUREKA, MT 59917

SHAWN M VANDEBERG
PO BOX 860
EUREKA, MT 59917

Priority Date: SEPTEMBER 19, 1902

Type of Historical Right: FILED

Purpose (Use): STOCK

Flow Rate: A SPECIFIC FLOW RATE HAS NOT BEEN DECREED BECAUSE THIS USE CONSISTS OF STOCK DRINKING DIRECTLY FROM THE SOURCE, OR FROM A DITCH SYSTEM. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY TO SUSTAIN THIS PURPOSE.

Volume: THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

Source Name INDIAN CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		N2NE	3	36N	27W	LINCOLN
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					
2		E2E2NW	3	36N	27W	LINCOLN
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					
3		E2SW	3	36N	27W	LINCOLN
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					

Period of Use: JANUARY 1 TO DECEMBER 31

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			N2NE	3	36N	27W	LINCOLN
2			E2E2NW	3	36N	27W	LINCOLN
3			E2SW	3	36N	27W	LINCOLN

Remarks:

SPLIT CLAIM NO. 76D 30149967 WAS AUTHORIZED AND GENERATED BASED ON INFORMATION IN THIS CLAIM.

WATER COURT
ABSTRACT OF WATER RIGHT CLAIM
KOOTENAI RIVER
BASIN 76D

Water Right Number: 76D 25316-00 STATEMENT OF CLAIM

Version: 5 -- POST DECREE

Status: ACTIVE

Owners: KIT STOKEN
BOX 768
EUREKA, MT 59917

SHAWN M VANDEBERG
PO BOX 860
EUREKA, MT 59917

Priority Date: MAY 1, 1889

Type of Historical Right: FILED

Purpose (Use): STOCK

Flow Rate: A SPECIFIC FLOW RATE HAS NOT BEEN DECREED BECAUSE THIS USE CONSISTS OF STOCK DRINKING DIRECTLY FROM THE SOURCE, OR FROM A DITCH SYSTEM. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY TO SUSTAIN THIS PURPOSE.

Volume: THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

Source Name INDIAN CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		N2NE	3	36N	27W	LINCOLN

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

2		E2E2NW	3	36N	27W	LINCOLN
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Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

3		E2SW	3	36N	27W	LINCOLN
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Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: LIVESTOCK DIRECT FROM SOURCE

Period of Use: JANUARY 1 TO DECEMBER 31

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			N2NE	3	36N	27W	LINCOLN
2			E2E2NW	3	36N	27W	LINCOLN
3			E2SW	3	36N	27W	LINCOLN

Remarks:

SPLIT CLAIM NO. 76D 30149969 WAS AUTHORIZED AND GENERATED BASED ON INFORMATION IN THIS CLAIM.

WATER COURT
ABSTRACT OF WATER RIGHT CLAIM
KOOTENAI RIVER
BASIN 76D

Water Right Number: 76D 25317-00 STATEMENT OF CLAIM

Version: 5 -- POST DECREE

Status: ACTIVE

Owners: KIT STOKEN
BOX 768
EUREKA, MT 59917

SHAWN M VANDEBERG
PO BOX 860
EUREKA, MT 59917

Priority Date: NOVEMBER 2, 1889

Type of Historical Right: FILED

Purpose (Use): STOCK

Flow Rate: A SPECIFIC FLOW RATE HAS NOT BEEN DECREED BECAUSE THIS USE CONSISTS OF STOCK DRINKING DIRECTLY FROM THE SOURCE, OR FROM A DITCH SYSTEM. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY TO SUSTAIN THIS PURPOSE.

Volume: THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

Source Name INDIAN CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		N2NE	3	36N	27W	LINCOLN
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					
2		E2E2NW	3	36N	27W	LINCOLN
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					
3		E2SW	3	36N	27W	LINCOLN
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					

Period of Use: JANUARY 1 TO DECEMBER 31

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			N2NE	3	36N	27W	LINCOLN
2			E2E2NW	3	36N	27W	LINCOLN
3			E2SW	3	36N	27W	LINCOLN

Remarks:

SPLIT CLAIM NO. 76D 30149970 WAS AUTHORIZED AND GENERATED BASED ON INFORMATION IN THIS CLAIM.

WATER COURT
ABSTRACT OF WATER RIGHT CLAIM
KOOTENAI RIVER
BASIN 76D

Water Right Number: 76D 25319-00 STATEMENT OF CLAIM

Version: 5 -- POST DECREE

Status: ACTIVE

Owners: KIT STOKEN
BOX 768
EUREKA, MT 59917

SHAWN M VANDEBERG
PO BOX 860
EUREKA, MT 59917

Priority Date: SEPTEMBER 13, 1903

Type of Historical Right: FILED

Purpose (Use): STOCK

Flow Rate: A SPECIFIC FLOW RATE HAS NOT BEEN DECREED BECAUSE THIS USE CONSISTS OF STOCK DRINKING DIRECTLY FROM THE SOURCE, OR FROM A DITCH SYSTEM. THE FLOW RATE IS LIMITED TO THE MINIMUM AMOUNT HISTORICALLY NECESSARY TO SUSTAIN THIS PURPOSE.

Volume: THIS RIGHT INCLUDES THE AMOUNT OF WATER CONSUMPTIVELY USED FOR STOCK WATERING PURPOSES AT THE RATE OF 30 GALLONS PER DAY PER ANIMAL UNIT. ANIMAL UNITS SHALL BE BASED ON REASONABLE CARRYING CAPACITY AND HISTORICAL USE OF THE AREA SERVICED BY THIS WATER SOURCE.

Source Name INDIAN CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		N2NE	3	36N	27W	LINCOLN
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					
2		E2E2NW	3	36N	27W	LINCOLN
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					
3		E2SW	3	36N	27W	LINCOLN
Period of Diversion:	JANUARY 1 TO DECEMBER 31					
Diversion Means:	LIVESTOCK DIRECT FROM SOURCE					

Period of Use: JANUARY 1 TO DECEMBER 31

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			N2NE	3	36N	27W	LINCOLN
2			E2E2NW	3	36N	27W	LINCOLN
3			E2SW	3	36N	27W	LINCOLN

Remarks:

SPLIT CLAIM NO. 30149971 WAS AUTHORIZED AND GENERATED BASED ON INFORMATION IN THIS CLAIM.

WATER COURT
ABSTRACT OF WATER RIGHT CLAIM
KOOTENAI RIVER
BASIN 76D

Water Right Number: 76D 25328-00 STATEMENT OF CLAIM

Version: 4 -- POST DECREE

Status: ACTIVE

Owners: KIT STOKEN
BOX 768
EUREKA, MT 59917

Priority Date: SEPTEMBER 13, 1903

Type of Historical Right: FILED

Purpose (Use): IRRIGATION

Irrigation Type: SPRINKLER

Flow Rate: 3.04 CFS

Volume: THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 3 - MODERATE

Maximum Acres: 150.00

Source Name INDIAN CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		SESENW	3	36N	27W	LINCOLN

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: PUMP

Period of Use: JANUARY 1 TO DECEMBER 31

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	63.00		NW	3	36N	27W	LINCOLN
2	45.30		N2SW	3	36N	27W	LINCOLN
3	39.70		W2SE	3	36N	27W	LINCOLN
4	2.00		E2NENE	4	36N	27W	LINCOLN

Total: 150.00

Remarks:

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

25328-00	25329-00	25330-00	25331-00	25332-00	25333-00
25334-00	25335-00	25336-00			

SPLIT CLAIM NO. 76D 30149977 WAS AUTHORIZED AND GENERATED BASED ON INFORMATION IN THIS CLAIM.

WATER COURT
ABSTRACT OF WATER RIGHT CLAIM
KOOTENAI RIVER
BASIN 76D

Water Right Number: 76D 25330-00 STATEMENT OF CLAIM

Version: 4 -- POST DECREE

Status: ACTIVE

Owners: KIT STOKEN
BOX 768
EUREKA, MT 59917

Priority Date: SEPTEMBER 19, 1902

Type of Historical Right: FILED

Purpose (Use): IRRIGATION

Irrigation Type: SPRINKLER

Flow Rate: 5.70 CFS

Volume: THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 3 - MODERATE

Maximum Acres: 150.00

Source Name INDIAN CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		SESENW	3	36N	27W	LINCOLN

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: PUMP

Period of Use: JANUARY 1 TO DECEMBER 31

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	63.00		NW	3	36N	27W	LINCOLN
2	45.30		N2SW	3	36N	27W	LINCOLN
3	39.70		W2SE	3	36N	27W	LINCOLN
4	2.00		E2E2NE	4	36N	27W	LINCOLN

Total: 150.00

Remarks:

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

25328-00	25329-00	25330-00	25331-00	25332-00	25333-00
25334-00	25335-00	25336-00			

SPLIT CLAIM NO. 76D 30149979 WAS AUTHORIZED AND GENERATED BASED ON INFORMATION IN THIS CLAIM.

WATER COURT
ABSTRACT OF WATER RIGHT CLAIM
KOOTENAI RIVER
BASIN 76D

Water Right Number: 76D 25331-00 STATEMENT OF CLAIM

Version: 4 -- POST DECREE

Status: ACTIVE

Owners: KIT STOKEN
BOX 768
EUREKA, MT 59917

Priority Date: JULY 14, 1894

Type of Historical Right: FILED

Purpose (Use): IRRIGATION

Irrigation Type: SPRINKLER

Flow Rate: 2.85 CFS

Volume: THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 3 - MODERATE

Maximum Acres: 150.00

Source Name INDIAN CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		SESENW	3	36N	27W	LINCOLN

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: PUMP

Period of Use: JANUARY 1 TO DECEMBER 31

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	63.00		NW	3	36N	27W	LINCOLN
2	45.30		N2SW	3	36N	27W	LINCOLN
3	39.70		W2SE	3	36N	27W	LINCOLN
4	2.00		E2NENE	4	36N	27W	LINCOLN

Total: 150.00

Remarks:

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

25328-00	25329-00	25330-00	25331-00	25332-00	25333-00
25334-00	25335-00	25336-00			

SPLIT CLAIM NO. 76D 30149980 WAS AUTHORIZED AND GENERATED BASED ON INFORMATION IN THIS CLAIM.

WATER COURT
ABSTRACT OF WATER RIGHT CLAIM
KOOTENAI RIVER
BASIN 76D

Water Right Number: 76D 25334-00 STATEMENT OF CLAIM

Version: 4 -- POST DECREE

Status: ACTIVE

Owners: KIT STOKEN
BOX 768
EUREKA, MT 59917

Priority Date: MAY 1, 1889

Type of Historical Right: FILED

Purpose (Use): IRRIGATION

Irrigation Type: SPRINKLER

Flow Rate: 4.75 CFS

Volume: THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 3 - MODERATE

Maximum Acres: 150.00

Source Name INDIAN CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		SESENW	3	36N	27W	LINCOLN

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: PUMP

Period of Use: JANUARY 1 TO DECEMBER 31

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	63.00		NW	3	36N	27W	LINCOLN
2	45.30		N2SW	3	36N	27W	LINCOLN
3	39.70		W2SE	3	36N	27W	LINCOLN
4	2.00		E2NENE	4	36N	27W	LINCOLN

Total: 150.00

Remarks:

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

25328-00	25329-00	25330-00	25331-00	25332-00	25333-00
25334-00	25335-00	25336-00			

SPLIT CLAIM NO. 76D 30149982 WAS AUTHORIZED AND GENERATED BASED ON INFORMATION IN THIS CLAIM.

WATER COURT
ABSTRACT OF WATER RIGHT CLAIM
KOOTENAI RIVER
BASIN 76D

Water Right Number: 76D 25335-00 STATEMENT OF CLAIM

Version: 5 -- POST DECREE

Status: ACTIVE

Owners: KIT STOKEN
BOX 768
EUREKA, MT 59917

Priority Date: NOVEMBER 2, 1889

Type of Historical Right: FILED

Purpose (Use): IRRIGATION

Irrigation Type: SPRINKLER

Flow Rate: 9.51 CFS

Volume: 5,745.00 AC-FT

Climatic Area: 3 - MODERATE

Maximum Acres: 150.00

Source Name INDIAN CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		SESENW	3	36N	27W	LINCOLN

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: PUMP

Period of Use: JANUARY 1 TO DECEMBER 31

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	63.00		NW	3	36N	27W	LINCOLN
2	45.30		N2SW	3	36N	27W	LINCOLN
3	39.70		W2SE	3	36N	27W	LINCOLN
4	2.00		E2NENE	4	36N	27W	LINCOLN

Total: 150.00

Remarks:

SPLIT CLAIM NO. 76D 30149983 WAS AUTHORIZED AND GENERATED BASED ON INFORMATION IN THIS CLAIM.